

Application No. (if known): 10/596,290

Attorney Docket No.: 67560(52888)

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Statement of Alexandra B. Urban with Appendix A (8 pages)
Renewed Petition Under 37 C.F.R. §1.47(a)
Copy of Decision on Petition Under 37 CFR §1.47(a) dated October 5, 2007
Return Receipt Postcard, postcard prepaid.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: THIBAULT et al.) Attorney Docket No. CPG 03-26 KF
)
Serial No.: 10/596,290) Conf. No.: 5001
)
Filed (371 date): June 8, 2006) Group Art Unit: TBA
Int. Filing date: December 8, 2004)
Int. App. No.: PCT/US04/40970) Examiner: TBA

For: A PACKAGE WITH PILFER PROOF ASSEMBLY

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STATEMENT OF ALEXANDRA B. URBAN

Dear Sir:

I, Alexandra B. Urban, do hereby declare as follows:

1. I am a registered patent attorney, and prior to November 1, 2007 was an employee of MeadWestvaco Corporation, the assignee of the present application. During my employment with MeadWestvaco Corporation, I was directly involved with the filing of the subject application and attempts made to obtain the inventors' signatures on Declaration and Assignment documents therefor.

2. This Statement of Facts is made in support of Applicants' Petition Under 37 C.F.R. §§ 1.497(b)(1) and 1.47(a) filed July 26, 2007 and the Renewed Petition Under 37 C.F.R. §1.47(a) being submitted concurrently herewith. This Statement is further made to set forth the facts relied upon to establish: (i) the refusal of inventor

Richard Thibault and/or the unavailability of said inventor to execute an oath or declaration in connection with the above-referenced application, and (ii) the diligent efforts made to secure the execution of a declaration or oath by Mr. Thibault.

3. Unless otherwise noted, this Statement of Facts is based on the firsthand knowledge of the undersigned.

4. Richard Thibault is one of the three named inventors in the above-referenced application, which claims priority to International Application No. PCT/US2004/40970 and U.S. Provisional Application No. 60/528,043. Since the time of invention Mr. Thibault has ceased to be employed by MeadWestvaco Corporation, the Assignee of this application. A copy of the assignment of the subject application by Richard Mazurek and Jamie Shimizu to MeadWestvaco Corporation, and Notice of Recordation thereof were provided as Exhibit 1 in the Statement of Facts filed on July 26, 2007.

5. On July 3, 2006, Dana C. Copeland, paralegal for the Assignee, working at my direction, spoke with Mr. Thibault by telephone, and sent via United Parcel Service, Declaration, Power of Attorney, and Assignment documents to Mr. Thibault for review and execution. In the July 3, 2006 letter, it was requested that Mr. Thibault execute and return the papers, including the Declaration, to Assignee. An unsigned copy of the July 3, 2006 letter was enclosed as Exhibit 2 in the Statement of Facts filed on July 26, 2007.

6. In the absence of a response from Mr. Thibault to the July 3, 2006 letter, further calls were placed to Mr. Thibault, and a second letter was sent to Mr. Thibault via Certified U.S. Mail on July 17, 2006. An unexecuted copy of the July 17,

2006 letter and a copy of the return receipt from that letter were enclosed as Exhibit 3 in the Statement of Facts filed on July 26, 2007.

7. On July 31, 2006, I sent, via Federal Express, a further letter to Mr. Thibault, calling attention to Mr. Thibault's obligation to assign any rights and execute documents relating to patent applications, under an employment agreement with Kearfold, Inc., which employment agreement was signed by Mr. Thibault on October 29, 1986. A copy of the July 31, 2006 letter, tracking data therefor, and Mr. Thibault's signed agreement, dated October 29, 1986 were enclosed as Exhibit 4 in the Statement of Facts filed on July 26, 2007.

8. Following continued lack of cooperation on the part of Mr. Thibault, on August 8, 2006, at my direction, John Irvine of Porter & Hedges, LLP sent yet another letter to Mr. Thibault via Federal Express, urging Mr. Thibault to sign the documents sent on July 3, 2006, again reminding Mr. Thibault of his obligation to sign such documents. A copy of the August 8, 2006 letter to Mr. Thibault and mailing label therefor were enclosed as Exhibit 5 in the Statement of Facts filed on July 26, 2007.

9. As a final attempt to urge Mr. Thibault to execute the required documents for the present application, on July 19, 2007 I sent a letter to Mr. Thibault by USPS Express Mail, requesting a response by July 25, 2007. In this mailing, a copy of the application as filed, a Declaration, a Power of Attorney form, and an Assignment were enclosed. A copy of the July 19, 2007 letter, the U.S.P.S. express mail label and tracking data indicating that Mr. Thibault did not pick up the package at the post office, were enclosed as Exhibit 6 in the Statement of Facts filed on July 26, 2007.

10. Tracking data for the July 19, 2007 letter to Mr. Thibault, printed on

November 1, 2007 is attached hereto as **APPENDIX A**. These data indicate that the letter was forwarded from Broomall, PA to West Chester, PA, and that the letter was received on July 30, 2007. However, to date Mr. Thibault has not returned either a signed Declaration or Assignment document for the above-identified application.

11. On November 1, 2007, Michael J. Pollack, Patent Agent at Edwards, Angell, Palmer & Dodge, LLP, working on behalf of MeadWestvaco Corporation, placed a telephone call to the U.S. Post Office in Broomall, Pennsylvania. The U.S. Postal Service employee who answered the telephone responded that she would be unable to provide a forwarding address for Mr. Thibault due to privacy concerns.

12. On November 1, 2007, Michael J. Pollack, on behalf of MeadWestvaco Corporation, performed internet searches, using Yahoo's People Search feature (at <http://people.yahoo.com>), AT&T's online directory (at <http://www.anywho.com>), SuperPages online directory (at <http://find.person.superpages.com>), and Yellow Book online directory (at <http://www.yellowbook.com/search/findaperson>) in an attempt to find an address for Mr. Thibault in West Chester, Pennsylvania. No address for Mr. Thibault was found.

13. The undersigned respectfully submits that Mr. Thibault has been continually and consistently uncooperative over the prolonged period (July 2006 through July 2007) during which attempts were made to obtain his signature on Declaration and Assignment documents for the application referenced above.

14. Pursuant to Rule 1.47(a), the last known address of Mr. Thibault was:
Richard Thibault
52 Sonia Lane
Broomall, PA 19008

15. The undersigned further declares that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that the statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under §1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing therefrom.

Respectfully submitted,

Date: 11-7-07

Alexandra B. Urban

Alexandra B. Urban, Esq., Reg. No. 45,171

Please direct all correspondence to:
MeadWestvaco Corporation
Law Department
299 Park Avenue, 13th Floor
New York, NY 10171

Telephone: (212) 318-5675
Facsimile: (212) 318-5035

Ser. No. 10/596,290
Docket: CPG 03-26 KF

APPENDIX A



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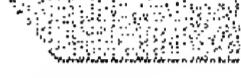
Search Results

Label/Receipt Number: **EB16 9574 973U S**

Detailed Results:

- Delivered, July 30, 2007, 12:16 pm, WEST CHESTER, PA 19380
- Notice Left, July 23, 2007, 1:43 pm, WEST CHESTER, PA 19380
- Notice Left, July 21, 2007, 1:55 pm, WEST CHESTER, PA 19380
- Processed, July 20, 2007, 9:43 pm, SOUTHEASTERN, PA 19399
- Processed, July 20, 2007, 6:34 pm, PHILADELPHIA, PA 19153
- Forwarded, July 20, 2007, 1:21 pm, BROOMALL, PA
- Undeliverable as Addressed, July 20, 2007, 11:36 am, BROOMALL, PA 19008
- Arrival at Unit, July 20, 2007, 8:17 am, BROOMALL, PA 19008
- Acceptance, July 19, 2007, 4:58 pm, NEW YORK, NY 10017

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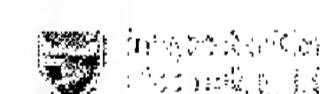
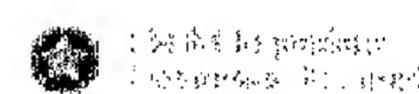
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Search Results

Label/Receipt Number: **EB16 9574 973U S**
Status: Delivered

Your item was delivered at 12:16 pm on July 30, 2007 in WEST CHESTER, PA 19380. The item was signed for by P TIBAULT.

Additional information for this item is stored in files offline.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: THIBAULT et al.) Attorney Docket No. CPG 03-26 KF
Serial No.: 10/596,290) Conf. No.: 5001
Filed (371 date): June 8, 2006)
Int. Filing date: December 8, 2004) Group Art Unit: TBA
Int. App. No.: PCT/US04/40970) Examiner: TBA

For: A PACKAGE WITH PILFER PROOF ASSEMBLY

Mail Stop PCT
Commissioner for Patents
Office of PCT Legal Administration
PO Box 1450
Alexandria, VA 22313-1450

RENEWED PETITION UNDER 37 C.F.R §1.47(a)

Dear Sir:

This is a Renewed Petition under Rule 1.47(a) to allow two inventors to enter the U.S. national stage of an international application where the third inventor refuses to join in the national stage application and/or is unreachable. Pursuant to Rule 1.47(a), this Renewed Petition includes proof of the pertinent facts shown in the Statement enclosed herewith.

BACKGROUND

On July 26, 2007 a Petition Under 37 CFR §§1.497(b)(1) and 1.47(a) was submitted with, *inter alia*, a declaration signed by two of three inventors in the patent application referenced above.

On October 5, 2007 a Decision on Petition Under 37 CFR §1.47(a) was issued,

stating that the July 26, 2007 Petition had been dismissed. The Decision on Petition maintains that Mr. Thibault, as of the filing date of the original Petition, had not received the July 19, 2007 letter; that sufficient time (e.g., two weeks) was not allotted for Mr. Thibault to return the documents contained in said mailing; and that a statement was not provided by someone with "firsthand knowledge" of the presentation of said documents.

REMARKS

The undersigned respectfully submits that the foregoing deficiencies are remedied by the enclosed statement of Alexandra B. Urban, and the accompanying tracking data indicating a delivery date for the July 19, 2007 letter to Mr. Thibault.

It is respectfully submitted that Mr. Thibault has been continually and consistently uncooperative over the prolonged period during which attempts were made to obtain his signature on Declaration and Assignment documents for the application referenced above. It is further submitted that any further attempts to provide additional complete copies of the application identified above and accompanying papers would continue to yield no positive outcome.

In compliance with Rule 1.47(a), this Petition states the last known address of the nonsigning inventor, Richard Thibault. The Statement attached herewith also states the last known address of the nonsigning inventor.

LAST KNOWN ADDRESS OF THE NONSIGNING INVENTOR

Although it appears that Mr. Thibault may have moved to West Chester, PA, pursuant to

Rule 1.47(a), the last known complete known address of Mr. Thibault is:

Richard Thibault
52 Sonia Lane
Broomall, PA 19008

RELIEF REQUESTED

Applicants respectfully request that the Commissioner accept the Declaration submitted on July 26, 2007 with the originally filed Petition, executed by the two remaining inventors on behalf of themselves and on behalf of Mr. Thibault, pursuant to Rules 1.47(a) and 1.497(b)(1). Applicants further respectfully request that the examination of the subject application commence promptly.

REQUIRED FEE

No fee is believed due for this submission. However, if for any reason a fee is required for the consideration of this Petition, or credit is owed for any excess fee paid, you are hereby authorized and requested to charge or credit Deposit Account No. 04-1105, under Order No. (52888) 67560, accordingly.

Respectfully submitted,

Date NOV/9/2007



David J. Silvia

Reg. No. 49,036
Attorney for Applicants

EDWARDS ANGELL PALMER
& DODGE, LLP
P.O. Box 55874
Boston, MA 02205
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ALEXANDRA B. URBAN, ESQ.
299 PARK AVENUE, 13TH FLOOR
NEW YORK NY 10171

OCT 9 2007

MeadWestvaco Corporation
Law Department - NY

In re Application of
THIBAULT, Richard, et al.
Application No.: 10/596,290
PCT No.: PCT/US2004/040970
Int. Filing Date: 08 December 2004
Priority Date: 08 December 2003
Docket No.: CPG 03-26 KF
For: A PACKAGE WITH PILFER PROOF
ASSEMBLY

DECISION

ON PETITION UNDER

37 CFR 1.47(a)

This is a decision on applicants' Petition Under 37 CFR 1.47(a), filed in the United States Patent and Trademark Office (USPTO) on 26 July 2007.

BACKGROUND

On 08 December 2004, applicants filed international application PCT/US2004/040970, claiming a priority date of 08 December 2003. The deadline for payment of the basic national fee in the United States was 08 June 2006.

On 08 June 2006, applicants filed a transmittal letter for entry into the national phase in the United States accompanied by the basic national fee.

On 26 February 2007, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration of the inventors was required.

On 26 July 2007, applicants submitted a petition under 37 CFR 1.47(a), which was accompanied by, *inter alia*, a declaration and the fee for a three month extension of time.

DISCUSSION

A petition under 37 CFR 1.47 must be accompanied by: (1) the fee under 37 CFR 1.17(h), (2) proof of pertinent facts, namely that the inventor refuses to sign after being presented with the application papers or cannot be reached after diligent effort, (3) a statement of the last known address of the inventor, and (4) an oath or declaration by the 37 CFR 1.47(a) applicant on behalf of himself or herself and the nonsigning applicant.

Items (1), (3) and (4) have been met. (1) The petition fee of \$200 has been paid. (3) The petition lists the last known addresses of non-signing inventor Richard Thibault as 52 Sonia Lane, Broomall, PA 19008.

Item (2) has not been satisfied. The petition must supply proof that applicant refused to sign after being presented with the application papers (specification, including claims, drawings, and oath or

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declaration). MPEP §409.03(d). Applicant only claims to have sent one complete copy of the application papers to the non-signing inventor. This claim is not supported by a statement from someone with firsthand knowledge of the presentation. Apparently the papers were prepared by Alexandra Urban, but the only statement concerning the presentation of the papers is from David J. Silvia. Second, that submission never reached the non-signing inventor and applicant did not allot sufficient time for the inventor to receive and act upon the papers. A minimum reasonable deadline for acting upon paperwork is usually two weeks. Copies of documentary evidence supporting the presentation to Mr. Thibault of a complete copy of the application papers should be submitted. Further, a first hand statement of the facts supporting the presentation should be provided.

The power of attorney from Alexandra Urban does not ask that the Office change the correspondence address. Two of three inventors ask that the correspondence address be changed, but in the absence of a grantable 37 CFR 1.47(a) petition, that is not sufficient. As such, the correspondence address remains the one listed above.

CONCLUSION

For the above reasons, applicants' petition under 37 CFR 1.47(a) is DISMISSED without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Failure to timely file the proper response will result in abandonment of this application. Extensions of time are available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Erin P. Thomson

Erin P. Thomson
Attorney Advisor
PCT Legal Administration

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Facsimile: 571-273-0459